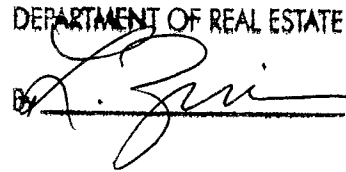


1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

APR 28 2010

DEPARTMENT OF REAL ESTATE
BY 

8 BEFORE THE STATE OF CALIFORNIA
9 DEPARTMENT OF REAL ESTATE
10

11 * * *

12 To:)
13 LENDSURE FINANCIAL) NO. H-4103 SD
14 SERVICES, INC.) ORDER TO DESIST AND REFRAIN
15) (B&P Code Section 10086)

16 The Commissioner (Commissioner) of the California Department of Real Estate
17 (Department) caused an investigation to be made of the activities of LENDSURE FINANCIAL
18 SERVICES INC. (LFS). Based on that investigation, the Commissioner has determined that
19 LFS has engaged in acts or practices constituting violations of the California Business and
20 Professions Code (Code) and/or Title 10, Chapter 6, California Code of Regulations
21 (Regulations). Furthermore, based on the investigation, the Commissioner hereby issues the
22 following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the
23 authority of Section 10086 of the Code.

24 FINDINGS OF FACT

25 1. At all times mentioned, LFS was and is licensed by the Department
26 as a real estate broker corporation. At all time mentioned James Anthony Konrath (Konrath)
27 was licensed as the designated broker officer of LFS.

1 2. At all times mentioned, LFS engaged in the business of, acted in the
2 capacity of, advertised, or assumed to act a real estate broker in the State of California, within
3 the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage
4 loan brokerage and/or loan modification business with the public wherein LFS, acting by and
5 through its employees and/or agents, solicited lenders and borrowers for or negotiated loans or
6 collected payments and/or performed services for borrowers or lenders or note owners in
7 connection with loans secured directly or collaterally by liens on real property for or in
8 expectation of compensation.

9 3. On about May 29, 2009, Konrath, on behalf of LFS, informed Joseph
10 Aiu, a Deputy Commissioner with the Department, that LFS had been performing loan
11 modifications and soliciting borrowers to perform one or more of the following acts for another
12 or others, for or in expectation of compensation: negotiate one or more loans for, or perform
13 services for borrowers and/or lenders in connection with loans secured directly or collaterally
14 by one or more liens on real property.

15 4. On about May 29, 2009, Konrath, on behalf of LFS, informed Joseph
16 Aiu, a Deputy Commissioner with the Department, that LFS claimed, received, and collected
17 advanced fees in amounts between \$895 and \$1595 from at least seven (7) borrowers, without
18 having first submitted advanced fee materials to the Commissioner, including but not limited
19 to:

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Borrower	Property Address	Payment Date	Payment Amount
Jaime Raffone	16217 Winecreek Road, San Diego	3/6/09	\$1595
Ericco Perrota	2860-A Casey Street, San Diego	2/25/09	\$1595
Rick McClure	6513 Puerto Drive, Rancho Murrieta	3/12/09	\$1595
Clementine Wamboye	3789 Thermiac Gulf Way, Sacramento	4/7/09	\$1595
Gina Rawson	46569 El Viento Seco Drive, Temecula	5/5/09	\$1595
Caitlin Kelley	227 La mesa Avenue, Encinitas	5/14/09	\$895
Antonio Lopez	3205 E. Levelglen Drive, West Covina	5/16/09	\$895

CONCLUSIONS OF LAW

Based on the findings of fact contained in paragraphs 1 through 4:

5. LFS, acting by and/or through one or more agents, associates, affiliates, and/or co-conspirators, solicited one or more borrowers to perform services for those borrowers and/or those borrowers' lenders in connection with loans secured directly or collaterally by one or more liens on real property located within the State of California, and charged, demanded or collected advance fees for the services to be provided, which acts require a real estate broker license under Sections 10131(d) (real estate license required for enumerated acts) and 10131.2 (real estate broker license required to charge or collect an advance fee) of the Code.

6. LFS, acting by and/or through one or more agents, associates, affiliates, and/or co-conspirators, used a form of advance fee agreement which had not been provided to the Department for its prior review and consideration, in violation of Section 10085 of the Code

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1 (prior submission of advance fee materials required) and Section 2970 (details for prior
2 submission of advance fee materials) of the Regulations.

3 DESIST AND REFRAIN ORDER

4 Based on the Findings of Fact and Conclusions of Law stated herein, LFS,
5 whether doing business under its own name, or any other name or fictitious name, IS HEREBY
6 ORDERED to:

7 1. Immediately desist and refrain from charging, demanding, claiming,
8 collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code,
9 for any of the services it offers to others, unless and until LFS demonstrates and provides
10 evidence satisfactory to the Commissioner that it is properly licensed by the Department as a
11 real estate broker, and that:

12 (a) LSF has an advance fee agreement which has been submitted to the
13 Department and which is in compliance with Sections 2970 and 2972 of the Regulations;

14 (b) LSF has placed all previously collected advance fees into a trust
15 account for that purpose and are in compliance with Section 10146 of the Code;

16 (c) LSF has provided an accounting to trust fund owner-beneficiaries
17 pursuant to Section 2972 of the Regulations; and

18 (d) LSF is in compliance with California law, as amended effective as of
19 October 11, 2009, with respect to loan modification and/or forbearance services. Under the
20 amended law, advance fees for loan modification or other mortgage loan forbearance
21 services can only be charged, demanded, or collected with reference to commercial loans and
22 loans for residential properties containing five (5) or more dwelling units.

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1 2. Immediately desist and refrain from demanding, claiming, collecting and/or
2 receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and
3 under any conditions, with respect to the performance of loan modification or any other form of
4 mortgage loan forbearance services in connection with loans on residential property containing
5 four or fewer dwelling units.

6 DATED: _____

4/26/2010

7 JEFF DAVI
8 Real Estate Commissioner

9
10 By _____
11

12 **Notice:** Business and Professions Code Section 10139 provides that "Any person acting as a
13 real estate broker or real estate salesperson without a license or who advertises using words
14 indicating that he or she is a real estate broker without being so licensed shall be guilty of a
15 public offense punishable by a fine not exceeding twenty thousand dollars (\$20,000), or by
16 imprisonment in the county jail for a term not to exceed six months, or by both fine and
17 imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars
18 (\$60,000)."

19 cc: LENDSURE FINANCIAL SERVICES INC.
20 11939 RANCHO BERNARDO ROAD #204
21 SAN DIEGO, CA 92128
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